

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE BARD IVC FILTERS
PRODUCTS LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC
MDL No. 2641

This Document Relates to:

Case No. 2:16-cv-00963-DGC

Amended Motion for Leave to File Amended Complaint

Counsel, pursuant to Federal Rule of Civil Procedure 15(a)(1)(B), files this Amended Motion to move this Court for an order granting leave to file an Amended Complaint that adds Plaintiff's sister, Cindy McKinzie, as the administrator of the deceased party's estate, in addition to adding Plaintiff's other siblings as parties making loss of consortium claims.

Plaintiff filed a *pro se* short form complaint on April 6, 2016, in the District of Arizona, Phoenix Division, MDL No. 2641. Plaintiff's complaint listed his mother, Florence Edwards, as the "Plaintiff/Deceased Party," and it listed Plaintiff, Jeff Edwards, as the "Spousal Plaintiff/Deceased party's spouse or other party making loss of consortium claim." On November 29, 2016, Plaintiff Jeff Edwards moved to substitute his sister, Cindy McKinzie, for himself on the complaint. *See* Doc. No. 4136. The deceased party, Florence Edwards, remained the same, but Plaintiff asked that the action go forward with Cindy McKinzie as the named Plaintiff, individually and as administrator of the estate of Florence Edwards. The Amended Complaint also added claims for Wrongful Death and Survival.

The Court has not yet ruled on that Motion.¹ Plaintiff now files this Amended Motion for Leave to File Amended Complaint, requesting that the Court direct the Clerk to file the attached Amended Complaint, which will leave Plaintiff as a party making a loss of consortium claim, add Cindy McKinzie as the administrator of the estate of Florence Edwards, and add all of Plaintiff's siblings as parties making loss of consortium claims. The case will therefore be on behalf of Cindy McKinzie, individually as administrator of the estate of Florence Edwards, and on behalf of Jeff Edwards, John Edwards, and Sara Townley, individually.

Because Defendants have not answered in this action, FRCP 15(a)(1)(B) permits Plaintiff to make this amendment as a matter of course. However, because this amendment requires the Clerk's office to change the named Plaintiffs on the docket, Plaintiff was instructed by the Clerk's Office to file this motion.

Pursuant to Local Rule 15.1(a), Plaintiff has attached the Amended Complaint, as well as a version of the Amended Complaint in which Plaintiff has indicated all changes to the original Complaint by underlining additional text and striking through all text to be deleted.

Based on the foregoing, Plaintiff requests that the Court grant Plaintiff's Amended Motion for Leave to File an Amended Complaint, and direct the Clerk to file the attached Amended Complaint and to add Cindy McKinzie, John Edwards, and Sara Townley as named plaintiffs in the case.

RESPECTFULLY SUBMITTED January 5, 2017.

By: /s/ Richard S. Lewis
Richard S. Lewis
Steve Rotman

¹ Plaintiff notes that in the previous motion, the case number was inadvertently listed as 2:15-cv-00963-DGC rather than 2:16-cv-00963-DGC, though the correct case number was present on the attached proposed Amended Complaint and Proposed Order.

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CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2017, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ Richard S. Lewis

Richard S. Lewis